

2014 WL 5470382 (Ala.Cir.Ct.) (Trial Pleading)  
Circuit Court of Alabama.  
Dallas County

Gloria MORGAN, Petitioner,

v.

PNC BANK, National Association Successor in Interest to National Real Estate Services, LLC, Successor by Merger to National City Mortgage, Inc., Formerly Known as National City Mortgage Co., doing Business as Accubanc Mortgage as Servicer for Federal Home Loan Mortgage Corporation Fictitious Defendants A, B, C, D, & E., Defendants.

No. 27-CV-2014-000002.  
February 10, 2014.

### **Petition for Temporary Restraining Order**

[Fernando Morgan](#) (MOR153), Counsel for Petitioner, Morgan Law Firm, P.O. Box 241866, Montgomery, AL 36124, P: 334-239-7070 F: 334-356-3298.

**Comes now** the Petitioner Gloria Morgan by and through her counsel, pursuant to [rule 65 Alabama Rules of Civil Procedure](#), and hereby moves this Honorable court to enjoin the PNC BANK, NATIONAL ASSOCIATION Successor in Interest to NATIONAL REALESTATE SERVICES, LLC, Successor by Merger to National City Mortgage, Inc., Formerly known as NATIONAL CITY MORTGAGE CO., doing business as ACCUBANC MORTGAGE as servicer for Federal Home Loan Mortgage Corporation, (Hereinafter referred to as "PNC") from conducting a foreclosure sale on the Petitioner's family home located at 214 9<sup>th</sup> Avenue, Montgomery, AL 36701, and further to issue a Temporary Restraining Order and enjoin and restrain PNC from proceeding with any further foreclosure actions until this matter can be heard by this court on its merits. In support of her motion the Petitioner states the following.

1. Petitioner resides in her family home located at 214 9<sup>th</sup> Avenue, Montgomery, AL 36701
2. Petitioner diligently made mortgage payments on her home mortgage until **financial** difficulties prevented her from doing so,
3. The Petitioner suffered a severe illness in 2005 which had a **financial** impact and subsequently lost her job of 35 years after the plant closed. Petitioner diligently seeks other employment in a limited job market.
4. Petitioner has most recently worked providing basic care services for an **elderly** gentleman.
5. Petitioner communicated with PNC to apprise them of her difficulties.
6. However, in September 2013, Petitioner attempted to make mortgage payments but PNC rejected the payments.
7. Shortly thereafter PNC began foreclosure proceedings.
8. Petitioner contacted PNC to request assistance by way of their Loss Mitigation department
9. PNC through its Loss Mitigation Department have unnecessarily delayed the process.

10. They have failed to act in good faith as mandated by federal law, mandates, and directives.
11. They have delayed mailing paperwork with important deadlines to the Petitioner until the deadlines were imminently close,
12. When Petitioner provided requested documentation to PNC, they requested new and additional information, delaying the application process for relief.
13. PNC refuses to work with the Petitioner to mitigate the costs and fees.
14. PNC has breached its duty of good faith and fair dealing with the petitioner.
15. Over the past two years PNC intentionally suppressed information about government programs that would assist the Petitioner, such as forbearance, and loan modification.
16. PNC plans to sell said property on February 18, 2014. If the Petitioner wishes to reinstate her mortgage she must pay a specified amount by February 13, 2014.
17. Petitioner would suffer immediate, irreparable injury, loss, and damage if this court does not enjoin the Defendants from proceeding with the foreclosure process.
18. The Petitioner would be deprived of her family home, rendered homeless, and subjected to immense burdens and hardships.
19. Petitioner avers that PNC has not provided proof that it is authorized to service the subject mortgage.
20. Although it has provided some documents, PNC has failed to produce any documents that would show that it has authority to pursue foreclosure.
21. PNC continues to assess excessive fees and costs which increase the amount the petitioner would need to pay to reinstate the mortgage
22. No other remedy is available to Petitioner at this time.
23. No harm will befall the Defendants if this temporary restraining order is granted.
24. The elements are in place to resolve this matter without foreclosure and to allow the Petitioner to save her home.
25. The undersigned counsel has negotiated with PNC to no avail. PNC remains rigid in its stance. Counsel has diligently sought resolutions that would mitigate expenses to the parties while allowing the Petitioner to maintain her home to no avail. The undersigned has during negotiations informed PNC that Petitioner would consider litigation if necessary to resolve this matter,
26. Petitioner requests that this Court in requiring Security for the issuance of the Temporary Restraining Order set a nominal amount for security considering the Petitioner's **financial** circumstances. To require a substantial amount would deprive the Petitioner of an opportunity to obtain relief through this court.

**WHEREFORE**, Petitioner humbly moves this Honorable Court to grant her petition for Temporary Restraining Order prohibiting PNC, its affiliates, agents, predecessors and or successors from any and all foreclosure activities, to waive any security requirement due to Petitioner's **financial** situation or in the alternative to set a nominal bond, and to set this matter for a hearing at the courts earliest convenience. Petitioner further asks that upon hearing this matter, that this court grant a permanent injunction that will remain in place until the modification and or pending litigation that may then exist in this matter is resolved.

Respectfully submitted, this *10th* day of February 2014.

<<signature>>

Gloria Morgan

Petitioner/Applicant

Sworn and Ascribed before me Stephanie Morgan, a Notary Public for the State of Alabama at Large this *10th* day of February 2014

<<signature>>

Notary

My Commission Expires; July 11, 2015

<<signature>>

Fernando Morgan (MOR153)

Counsel for Petitioner

Morgan Law Firm

P.O. Box 241866

Montgomery, AL 36124

P: 334-239-7070 F: 334-356-3298

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